IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR

::::

O R D E R

Ramzani & Ors.
Vs.
State of Rajasthan & Anr.

S.B. CIVIL WRIT PETITION NO.4389/2001
UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 05th October, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Mr.R.S. Saluja, Advocate for the petitioners.
Mr.Rameshwar Dave, Dy. Govt. Advocate.

BY THE COURT

In this writ petition, the petitioner has prayed that a writ of mandamus be issued to the respondent-State to grant him the benefit of judgment dated 16th February, 1999 passed by Rajasthan Civil Services Appellate Tribunal (for short 'tribunal'), in Appeal No.202/1995.

The respondents by their order dated 28th February, 1994 decided to extend the benefit of selection grade to the work-charged employees who were brought on regular establishment w.e.f. 01st April, 1994 and directed that their service for the purpose of grant of selection scale on completion of 9, 18 and 27 years shall be reckoned from 01st April, 1994.

The petitioner's contention is that his entire service prior to 01st April, 1994 would in this manner be liable to be completely ignored. The respondents by their Circular dated 04th April, 1998 thereafter decided that although the period of service for the purpose of grant of selection grade would be reckoned from the date the employee is declared semi permanent, but actual benefits would be payable to him only from 01st January, 1998. The Government thereafter issued a another Circular dated 20th July, 1998 in regard to personal pay granted under Rule 11 (1) (a)(iii) of the Revised Pay Scale Rules, 1990 and for further fixation of pay on promotion and grant of selection grade. In the meantime, a similar appeal came to be decided by the tribunal vide its judgment dated 12th March, 1992 referred to above wherein the tribunal held that even though the period of service for the purpose of grant of selection grade would be countable from the date an employee is made semi permanent, he should be entitled to receive actual benefit at least from 01st April, 1994

instead of 01st January, 1998.

I have heard Mr.R.S. Saluja, learned counsel for the petitioners and Mr.Rameshwar Dave, learned Dy. Government Advocate and perused the records.

Mr.R.S. Saluja argued that apart from the judgment passed by the tribunal in appeal No.202/95, the tribunal also passed such similar judgment on 12th March, 1992 in the case of one Bajrang Lal. The said judgment was challenged before this Court at Jaipur Bench in S.B. Civil Writ Petition No.3144/2000 titled as Chief Engineer & Anr. vs. Bhajanlal & Anr. The learned Single Judge dismissed the writ petition on 20th July, 2000. The respondents thereupon challenged the judgment of the Single Bench before the Division Bench in D.B. Civil Writ Petition No.400/2001 which was also dismissed on 02nd November, 2001. Not being satisfied, they further challenged the said judgment before the Hon'ble Supreme Court in Special Leave Petition No.4422/2002 which was also dismissed on 08th July, 2002.

On the other hand, learned counsel for the respondents reiterated the stand taken in the reply actual monitory benefit of selection scale payable only from 01st January, 1998 but he could not dispute the fact with regard to the judgment having been

passed on the same subject against the respondents in the aforesaid writ petition and upheld even by the Hon'ble Supreme Court.

In the circumstances, I do not find any reason to depart from the view already taken by this Court in the case of Bhajanlal (supra). The writ petition is accordingly allowed with the direction to the respondents to extend the benefit of the said judgment in the case of Bajrang to the case of the petitioner as well. There shall be no order as to costs.

[MOHAMMAD RAFIQ],J.

Ashwini/-